87-1435

Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

BILL OLIVER BLUME,

APPELLANT,

V.

MARVIN D. GAGEBSEN, CHIEF
BUREAU OF OCCUPATIONAL LICENSES,
DEPARTMENT OF SELF-GOVERNING AGENCIES
OF THE STATE OF IDAHO;
BOARD OF BARBER EXAMINERS, STATE OF IDAHO,

APPELLEES.

ON APPEAL FROM THE
STATE OF IDAHO COURT OF APPEALS

APPELLANT'S
JURISDICTIONAL STATEMENT

BILL O. BLUME
HCR 61
BONNERS FERRY, ID 83805
(208) 267-5540

QUESTIONS PRESENTED

1. Whether certain laws of the State of Idaho, construed and applied so as to impose theories of government and law repugnant to Appellant's sincerely held religious beliefs and/or to regulate those beliefs, constitute an infringement of the freedom of religious belief in violation of the First and Fourteenth Amendments.

2. Whether restricting Appellant's practice of religion in the absence of grave and immediate danger, and/or the compelled practice of theories of government and law repugnant to Appellant's religion, all under color of law, constitutes an abridgement of the freedom of religious exercise in violation of the First and Fourteenth Amendments.

3. Whether failure of executive and judicial officers to maintain neutrality between Appellant's religion and the non-religions of democratic statism and legal positivism constitutes an infringement of the First and Fourteenth Amendments.

4. Whether the establishment of the secular belief systems of democratic statism and legal positivism openly hostile to Appellant's religion, constitutes an infringement of the First and Fourteenth Amendments.

In questions one and two, the term "law" is intended to include the Constitution of the State of Idaho; title 54, section 501 and title 1, section 701 of the Idaho Code; and/or any other human laws that may have been invoked in the original trial and subsequent review.

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JURISDICTIONAL STATEMENT

Appellant, Bill Oliver Blume, appeals to the Supreme Court of the United States from the judgment of the Court of Appeals of the State of Idaho affirming the District Court order granting Appellee's motion for summary judgment permanently enjoining Blume from the practice of barbering as defined by Idaho Code Sec. 54-502 until such time as the registration requirements of chapter 5, title 54,

Idaho Code are complied with, and denying Blume's motion for summary judgment.

OPINIONS BELOW

The opinion of the Idaho Court of Appeals, Appendix 1, is reported: 743 P.2d 91. The opinion of the District Court is found in Appendix 2.

JURISDICTION

The judgment of the Idaho Court of Appeals was entered on September 2, 1987. Timely petition for rehearing by the Idaho Appeals Court was denied October 6, 1987, Appendix 3. Timely petition for review by the Idaho Supreme Court was denied October 30, 1987, Appendix 4. This Court has jurisdiction under 28 U.S.C.A. 1257(2). If appeal jurisdiction is not found, Appellant requests that this document be considered as a petition for writ of certiorari with jurisdiction under 28 U.S.C.A. 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourteenth Amendment

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Appellees Marvin D. Gregersen and his fellow officials (hereinafter "Association"), are committed to certain theories of government and law, namely, democracy, statism and legal positivism. The Association is dedicated to coercing society's conformance to their belief system. As a first step in establishing these theories in the minds of the Appellant (hereinafter "Blume") and others, their predecessors enacted the Constitution of the State of Idaho and the many statutes which comprise the Idaho Code. Then, Blume was compelled to attend Association schools and undergo a course of indoctrination and conditioning during his formative years designed to make him psychologically incapable of rejecting the ideas of the state, popular sovereignty and legal positivism.

By the grace of God, Blume has thrown off the indoctrination and conditioning. He has embraced the religion of Christianity in its original form. He holds as truth that God

is sovereign, not the people; that Idaho is no more than a province of God's kingdom, not an independent state; that democracy, statism and legal positivism are rebellion to God and divine law; and that all men are created equal.

Blume felt compelled by conscience, beginning in 1984, to flout the Association's licensing scheme for barbers because the underlying presuppositions contradict every major doctrine of his religion.

At no time has Blume's expression of his religion constituted grave and immediate danger to, or injured, anyone. At no time has the Association even alleged injury or grave and immediate danger. There has been no showing that infringement of Blume's religious freedom is essential to accomplish an overriding interest in health or safety, save for groundless speculation in remote possibilities. Nonetheless, Blume has twice been tried criminally, convicted, fined and even imprisoned briefly for non-payment of fine.

Because Blume continued to express his religion and declined to practice the Association's non-religion, a complaint was filed for preliminary and permanent injunction on March 21, 1985, to abridge religious freedom under color of equitable relief. A motion for summary judgment was filed by the Association and Blume filed an answer and counterclaim raising the First Amendment issues which was treated as a motion for summary judgment.

On April 22, 1986, District Court Judge Dar Cogswell (hereinafter "Cogswell") granted the Association's motion for summary judgment. Judge Cogswell permanently enjoined Blume from the practice of barbering as defined by Idaho Code, section 54-502 until such time that Blume complies with the registration requirements of chapter 5, title 54, Idaho Code. Blume's motion for summary judgment was denied.

At about that time, Blume formed the "Bill Blume Good Grooming Society," a private group devoted to the good grooming. periodi-

cally the Association sends its agents to interview Society members. The Association continues to compel Blume to practice theories of government and law repugnant to his religious tenets. The mental distress and the adverse publicity resulting from this case, the related criminal cases and the periodic harassment has had a chilling effect on the expression of Blume's religion and on the earning of his livelihood. Such open hostility from officials has made the propagation of his beliefs very difficult.

Blume appealed Judge Cogswell's decision. The Court of Appeals (hereinafter "Burnett") affirmed on September 2, 1987, declining to remain neutral between the parties and officially disapproving of Blume's religious beliefs as too broad and rigid. Blume's petitions for rehearing and for review by the Supreme Court were denied October 6 and October 30, 1987, respectively.

Review of the affirmance of the order granting injunction is sought, as well as

reversal of the order itself.

PRESENTATION OF QUESTIONS BELOW

The federal questions were timely and properly raised as shown by the fact that the Idaho Court of Appeals expressly decided them.

With regard to the first question presented here, dealing with the imposition of concepts opposed to Blume's religious beliefs, Judge Burnett in his Opinion expressly states:

> "We emphasize that Blume's right to believe in the "New Covenant Theocracy" remains uninhibited. The barbering laws do not censor religious thought or expression." (Page 7).

In regulation and censure, Judge Burnett declined to

> "fashion First Amendment jurisprudence according to the breadth or rigidity of a particular religious doctrine." (Page 4).

With regard to the second question dealing with the restriction of religious practice in the absence of grave and immediate danger, Judge Burnett ruled:

> "Accordingly, we reject Blume's free exercise claim. The state barbering laws do not impermissibly infringe upon his

religious freedom under the Constitution." (Page 7).

Judge Burnett foreclosed the pursuit of a federally protected right by declining to rule on the compelled practice of democratic statism question although expressly raised.

With regard to the third question dealing with governmental neutrality between parties in an ideological dispute:

> "...In a discourse drawing upon concepts of theology and political theory, Blume por- trays a seemingly irreconcilable conflict between his "New Covenant Theocracy" and "democratic statism." He contends that the First Amendment requires government to be neutral in this conflict -- to refrain from compelling any adherent of Blume's faith to follow a secular rule. Of course, any such application of the First Amendment would disable government with respect to Blume or to others who share his beliefs."
>
> "Our analysis necessarily is anchored by the very proposition that Blume disputes. It is that the people possess a sovereign power;..." (Page 3).

> "...Although we appreciate the sincerity of Blume's argument, we cannot fashion First Amendment jurisprudence according to the breadth or rigidity of a particular religious doctrine." (Page 4).

With regard to the fourth question dealing with the establishment of a belief

system hostile to Blume's religion:

> "He (Blume) attempts to invoke the establishment clause by contending that "democratic statism" is a belief system in competition with theocracy. He urges that government ought not to favor one belief system over the other." (Page 4).
>
> . . .
>
> "Although the laws (regulating barbering) may incidentally affect Blume's religious beliefs, their primary effect is clearly secular. These laws do not entangle the government with religion except in the rare instance, such as the case now before us, where an individual espouses a faith with tenets so sweeping that all secular laws are implicated. Accordingly, we reject Blume's claim of religious infringement insofar as it is grounded in the estab- lishment clause." Page 5.

SUBSTANTIAL NATURE OF QUESTIONS PRESENTED

The questions presented herein involve infringement by the Association of the blessings which government was intended to secure in America. In the event jurisdiction for appeal is not found, the writ of certiorari should be allowed because the Idaho Court of Appeals has decided important questions of federal law in a way in conflict with applicable First Amendment principles enunciated in

decisions of this Court.

ARGUMENT

I.

FREEDOM OF THOUGHT IS ABSOLUTE. BLUME MUST BE FREE TO CHOOSE A RELIGION GUIDED BY HIS MIND AND CONSCIENCE, AND BE FREE FROM THE IMPOSED BELIEFS OF THE ASSOCIATION.

The sincerity of Blume's beliefs has never been questioned. Indeed, it has been acknowledged. See Order Denying Petition for Rehearing (App. 3). At all times herein Blume has been a resident of the Kingdom of God and physically present therein. The same is true of all others on earth, despite denials.

The freedom of thought, which includes freedom of religious belief, has uniformly been held to be absolute. While giving lip service to this fundamental principle of a free society Judge Burnett has found that freedom of mind is not absolute when analysis of the case "necessarily is anchored by the very proposition that Blume disputes" (see page 3 of his Opinion), namely, that the

people are sovereign, not God. In this ideological conflict the freedom of thought has been infringed, causing a fatal collision with an overriding interest protected by the federal compact.

Similar dark notions of liberty have been rejected by this Court. In a case concerning naturalization of a Canadian citizen, Mr. Justice Hughes, dissenting, said:

> "But, in the forum of conscience, duty to a moral power higher than the State has always been maintained. The reservation of that supreme obligation, as a matter of principle, would unquestionably be made by many of our conscientious and law-abiding citizens. The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation....And, putting aside dogmas with their particular conceptions of deity, freedom of conscience itself implies respect for an innate conviction of paramount duty. The battle for religious liberty has been fought and won with respect to religious beliefs and practices, which are not in conflict with good order, upon the very ground of the supremacy of conscience within its proper field. What that field is, under our system of government, presents in part a question of constitutional law and also, in part, one of legislative policy in avoiding unnecessary clashes with the dictates of conscience." (U.S. v Macintosh, 283 US 605, 633-634, 1930.)

This view was eventually adopted. How extensive is the domain of conscience? Blume's religion teaches there is only one realm, God's. The Association vainly attempts to divide that realm into the spiritual and the temperal, seizing the latter for themselves. Clashes with the dictates of conscience are held by this Court to be permissible only in extraordinary circumstances which have not been approached here:

> "It is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly sensitive constitutional area (freedom of religion), '[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation,' Thomas v. Collins, 323 U.S. 516, 530." (Sherbert v. Verner 374 US 398, 406, 1962).

There is no "grave abuse" in honestly and safely earning one's livelihood as God commands. Blume has not departed from the domain of conscience, rather the Association invades that domain. All activities are religious, even those Judge Burnett believes to be "commercial activity."

Reversing Macintosh in another case concerning admission to citizenship and military service, this Court enunciated the ruling principle in ideological conflicts between government and religion:

> "Mr. Justice Holmes stated in the Schwimmer case (279 U.S. pp. 654-655): 'if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought - not free thought for those who agree with us but freedom for the thought that we hate. I think that we should adhere to that principle with regard to admission into, as well as to life within this country.' The struggle for religious liberty has through the centuries been an effort to accommodate the demands of the State to the conscience of the individual. The victory for freedom of thought recorded in our Bill of Rights recognizes that in the domain of conscience there is a moral power higher than the State. Throughout the ages, men have suffered death rather than subordinate their allegiance to God to the authority of the State. Freedom of religion guaranteed by the First Amendment is the product of that struggle." (Girouard v U.S., 328 US 61, 68-69, 1945.)

The Association is eager to compel Blume to subordinate his allegiance to God to the authority of the State. However, we know as a matter of fact that the "State" is no more than flesh and blood human beings. The phrase

"the authority of the State" introduces an element of mysticism which makes logical and reasonable thought more difficult. Correctly understood this case in reality involves Blume's allegiance to God versus the wishes of an uncertain number of Blume's equals; in other words, the "might makes right" principle of barbarians - the very thing government is established to prevent.

In Idaho the struggle for religious liberty is not over. Blume has rejected the ideologies and theories which lie at the heart of the existing order. This is the same expression, motivated by the same beliefs, which was met with violence and oppression from the Roman government nearly two thousand years ago. The earliest Christians believed, as does Blume, that full "authority in heaven and on earth" has been committed to Jesus by God (Matthew 28:18). Of those Christians it was said: "They all flout the Emperor's laws, and assert that there is a rival king, Jesus" (Acts 17:7). They, too, sought to "over throw

the existing order" (1 Corinthians 1:28).

When the State of West Virginia used the "might makes right" principle, also called legal positivism, to force the consciences of school children by compelling them to pledge allegiance, this Court noted:

> "The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization....We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order." (Board of Education v Barnette, 319 US 624, 641-642, 1942).

Neither are the principles of decision obscure in this case. What made it difficult for Association judges was that the belief system involved was their own, made venerable by time and honored by tradition. They are violently

intolerant of any ideas which touch the heart of their existing, unjust order. They will sacrifice all freedom rather than allow their beloved theories of government and law to be thrown off by the people. Rather than stop imposing the theories of democracy and statism on Blume they prefer to abolish freedom of conscience, freedom of thought, freedom of religion, divine law, justice and governmental neutrality. The substance of the freedom to differ is indeed being tested here. The Association has fallen far short of the mark. Mind control and fear keeps them in power.

The state itself is found only in the realm of imagination. From the famous case which resulted in the Eleventh Amendment, this Court acknowledged as much: -

> "In all our contemplations, however, concerning this feigned and artificial person, we should never forget, that, in truth and nature, those who think and speak and act, are men." (Chisholm v Georgia, 2 US(Dall) 419, 455, 1793).

Then, more recently:

> "But since the state, used in the real sense of the word, is an abstract entity

> with its individual citizens as its component parts, it can no more act in and of itself than can a corporation which is in the same sense composed of its stockholders." (City of Bisbee v Cochise County, 78 P.2nd 982, 986, 1938).

No doubt the Association finds the abstract concepts of the state, popular sovereignty and legal positivism compelling. But the very existence of these ideas rests solely on the exercise of the freedom of thought by Blume's equals. The Association wants to enjoy this most basic of freedoms, while unjustly denying it to Blume.

The Association did its very best to induce in Blume an uncritical, mindless, life-long acceptance of their political theories and legal philosophy. By the grace of God that Orwellian conditioning has been thrown off. Blume's freedom of thought must now be effectively recognized and secured as absolute.

Gregersen and his fellow believers are obsessed with their mystical ideas about the scope and authority of the "state" and its

enactments; and that's just what they are-their ideas. Freedom to hold these ideas does not extend to imposing them on Blume by force and the threat of civil and criminal penalties. No man has such power, either individually or in groups, however large. Only in the world of fantasy does such power exist, or in tyranny.

This Court has long accepted the following general proposition as embodying a sound principle of constitutional law:

> "When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principle has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an 'unconstitutional condition.' What the Court has said in those cases is equally applicable here, viz., that 'Acts generally lawful may become unlawful when done to accomplish an unlawful end, United States v. Reading Co., 226 U.S. 324, 357, (cites omitted) and a constitutional power cannot be used by way of condition to attain an unconstitutional result.' Western Union Telegraph Co. v. Foster, 247 U.S. 105, 114, (cites omitted)." (Gomillion v.

Lightfoot, 364 U.S. 346, 347, 1960).

Regulation of Blume's freedom of thought is an unconstitutional result attained by a scheme to license barbers perhaps constitutional in an isolated context. Holding in mind that the "State" is only men no more than equal to Blume and placed in the context of Blume's religion with its sweeping tenets, the Association's attempts to force Blume to accept the principles and institutions of their government and law cannot be upheld. Judge Burnett glosses over the Association's disregard for freedom of thought. From page five of his Opinion:

> "Although the laws may incidentally affect Blume's religious beliefs, their primary effect is clearly secular. These laws do not entangle the government with religion except in the rare instance, such as the case now before us, where an individual espouses a faith with tenets so sweeping that all secular laws are implicated."

Judge Burnett's words provide all the proof needed of the claims made herein by Blume. Judge Burnett does not deny that Blume's religious beliefs are affected, he freely

admits they are affected "incidentally." Judge Burnett does not deny that the Association is entangled with religion in Blume's case. He freely admits this also, then attempts to justify it as a "rare instance" and shifts the blame to Blume and his faith "so far-reaching that such an impact is unavoidable (page 6 of Burnett's Opinion)." Judge Burnett regulates religious belief by placing Blume's tenets outside judicial cognizance:

> "Although we appreciate the sincerity of Blume's argument, we cannot fashion First Amendment jurisprudence according to the breadth or rigidity of a particular religious doctrine." Page 4 of Burnett's Opinion.

Not only can they, but they must so fashion jurisprudence under the U. S. Constitution.

> "The door of the Free Exercise Clause stands tightly closed against any governmental regulation of religious beliefs as such, Cantwell v Connecticut, 310 US 296, 303. Government may neither compel affirmation of a repugnant belief, Torcaso v Watkins, 367 US 488; nor penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities, Fowler v Rhode Island, 345 US 67;..." (Sherbert v Verner, 374 US 398,

402, 1962).

This Court has never permitted regulation of religious belief not even "incidentally" because of "breadth or rigidity" or any other reason. Neither has it permitted the compelled affirmation of repugnant beliefs. Yet the Association's licensing scheme does just that in the case of Blume and his "far-reaching" tenets because the laws comprising that scheme are based in principle upon the theory of popular sovereignty and the unjust legal philosophy of positive law. Both of these, while superficially secular, are freighted with unavoidable religious implications repugnant to Blume who's faith is centered upon God's Sovereignty and God's just law. Imposition of the barber license cannot be accomplished without imposing the underlying beliefs repugnant to Blume.

> "For '[i]f the purpose or effect of a law is to impede the observance of one or all religions or is to discriminate invidiously between religions, that law is constitutionally invalid even thought the burden may be characterized as being only indirect.' Braunfeld v Brown, supra 366 US at

607." (Sherbert v. Verner, 374 US 398, 404, 1962).

As construed and applied the statutes and Constitution of the State of Idaho discriminate invidiously between religions. Those which are not over-broad or over-rigid are permitted. The test seems to be acceptance of statism, popular sovereignty and legal positivism, or at least acting out these unbiblical theories whenever officials demand. Conversely, those religions which see the state, popular sovereignty and positive law as rebellion to God's kingdom and law, and forbid acting out such theories fail the test. They are suppressed and hindered to the point that now the very possibility of such religions is virtually beyond thinking in Idaho. This is a textbook example of successful thought control at its tyrannical best.

II.

THE ASSOCIATION MAY NOT COMPEL BLUME TO PRACTICE THEIR THEORIES OF GOVERNMENT AND LAW.

ONLY GRAVE AND IMMEDIATE DANGER JUSTIFIES RESTRICTION OF RELIGIOUS EXPRESSION.

SINCE ANCIENT TIMES THE PRACTICE OF BLUME'S RELIGION HAS ALWAYS MEANT THE ABOLISHMENT OF HUMAN GOVERNMENT AND LAW, AND THE ESTABLISHMENT OF GOD'S KINGDOM AND LAW

Man's relationship to God was made no concern of government. The Founders fashioned a charter of government which envisioned the widest possible toleration of conflicting views and practices. A charter which expressly states that abolishment of unjust government is a right and a duty (Declaration). This Court has long recognized that the free exercise of religion can not be restricted, save in cases of grave abuse. It will be shown below (Section V.) that this is not only a Constitutional principle, but a principle, sine qua non, of the very legal philosophy established by the Founders. This Court has determined that:

> "The right of a State to regulate, for example, a public utility may well include, so far as the due process test is concerned, power to impose all of the restrictions which a legislature may have a 'rational basis' for adopting. But

> freedoms of speech and of press, of assembly, and of worship may not be infringed on such slender grounds. They are susceptible of restriction only to prevent grave and immediate danger to interests which the State may lawfully protect." (West Virginia Board of Education v Barnette, 319 US 624, 639, 1942).

And that:

> "No one would claim today that the (First) Amendment is constricted, in 'prohibiting the free exercise' of religion, to securing the free exercise of some formal or creedal observance, of one sect or of many. It secures all forms of religious expression, creedal, sectarian or nonsectarian, where ever and however taking place, except conduct which trenches upon the like freedoms of others or clearly and presently endan- gers the community's good order and secur- ity." (Everson v. Board of Education, 330 U.S. 1, 32, 1946).

Blume's flouting of the existing order in his shop on Main Street, is just such a religious expression as this Court is determined to protect: non-intrusive, safe and orderly.

The Association may have shown a "rational basis," but was never required to show that the licensing scheme for barbers was essential. Several more effective alternatives which respect Blume's religious liberty

will be set forth below. Judge Burnett has ignored this limit on governmental authority, because

> "any such application of the First Amendment would disable government with respect to Blume or to others who share his beliefs," (page 3 of the Opinion).

The Association's admitted goal is to dominate Blume, not protect the public.

The existing order is losing its attraction for the people:

> "The fact of that discontent is clear. When the surveys of the early seventies showed 70 percent and 80 percent of Americans distrustful of government, business, the military, it meant that this feeling went beyond blacks, the poor, the radicals....Millions of people have been looking desperately for solutions to their sense of impotency, their loneliness, their frustration, their estrangement from other people, form the world, from their work, from themselves. They have been adopting new religions, joining self-help groups of all kinds. It is as if a whole nation were going through a critical point in its middle age, a life crisis of self-doubt, self-examination....Americans might be ready to demand not just more tinkering, more reform laws, another reshuffling of the same deck, another New Deal, but radical change." Zinn, Howard, A People's History of the United States, Harper, 1980, p. 575-580.

The best time for government to cut off a

ground swell of public opinion against the existing order is when it is small. That is the effect of the Association's injunction; an effect this Court has already decided is not permitted by the Constitution:

> "...Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard.
>
> "It seems trite but necessary to say that the First Amendment to our Constitution was designed to avoid these ends by avoiding these beginnings. There is no mysticism in the American concept of the State or of the nature or origin of its authority. We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority." (Board of Education v. Barnette, 319 US 624, 641).

Suppressing the propagation and practice of Blume's religion, which has always had, for three and a half millennia, the effect of "disabling government" as Judge Burnett puts it and of establishing the Kingdom of God and His law, not only infringes the freedom of religion, but also eliminates dissent and coerces public opinion. This control of

opinion begins first with compulsory attendance at Association schools and pervades even their courts.

Blume's ancient religion has the potential to win over large segments of the population until now suffering the evil and injustice of democratic statism and legal positivism for lack of knowledge. If given the same toleration as other religions, Blume's will overcome Association indoctrination and grow by leaps and bounds, winning the hearts and minds of millions of Americans and displacing the theories of government and law now officially imposed. This is in the American tradition of abolishment:

> "That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundations on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness." (Declaration of Independence).

If, as the Association's theory holds, the people are indeed sovereign, then they may abolish the State of Idaho and establish the

Kingdom of God and divine law through the peaceful exercise of their freedom of thought and religious practice, gradually, over an extended period, or in any other way that seems right to them. Officials of the Association may not limit the people to majority rule, statist institutions, constitutional amendments or positive law, or leave them no choice but violent revolution, to stop this change from occuring. As pointed out by Judge Cogswell:

> "Whenever hostility to the existing system shall become universal, it will be also irresistible. The people made the constitution, and the people can unmake it. IV. A. Beveridge, The Life of John Marshall 352, 1919." (Page 7 of his Order).

The term "universal" is not to be understood as virtually all or even a majority of the people.

> "John Shy, in his study of the Revolutionary army (A People Numerous and Armed)... estimates that perhaps a fifth of the population was actively treasonous. John Adams had estimated a third opposed, a third in support, a third neutral." The People's History of the United States, supra, p. 76.

The Association's purpose is to prevent the

possibility of the people unmaking the de facto order by preventing Blume's peaceful and orderly exercise and expression of his religion. Hostility to the existing system is a fact. That hostility will never find a healthy outlet if the practice and propagation of Blume's religion continue to be suppressed.

Experience shows that majority rule, statism and legal positivism is not the surest way to safety and happiness. Blume believes it is his religious duty to proclaim by example to all the world the Biblical idea of government as the best and freest known to man. This idea could capture, and in fact, is capturing, despite violent suppression, the hearts and minds of men and women today. This is not a decision for Gregersen, Burnette and other officials. It is for the people they serve to choose the form of government that suits them.

The most efficient and least costly way to stop such a movement is to act when it first begins, when only Blume and a handful of

others must be suppressed or eliminated. Act quickly and firmly, with all necessary force, including the possibility of deadly force. And that's exactly what the Association has done. We must remember that freedom of thought is absolute, not governments. The door must be left open for fundamental political change especially when inseparable from religious expression. Democracy was only intended as an experiment. It has failed. Democracy, statism and positive law have proved to be "absurd, slavish, and destructive to the good and happiness of man-kind."

More than fifty per cent attend church on a regular basis; more than that profess to be Christians; and about 90% believe in God. Kept in ignorance, many believe only in a "spiritual" Kingdom of God within. They are unaware that the democratic state is itself "spiritual" just like the Kingdom because both are found in the hearts and minds of people and nowhere else. Thousands have joined the Christian Reconstruction movement to restore

divine law lead by such men as R. J. Rushdooney and David Chilton. What will Americans do if governmental force no longer suppresses and denies, at least indirectly, the truth of Blume's religion? Each of these is a potential proselyte. But, so long as the Association officially disapproves Blume's religion for toleration, few, if any, will have the courage to live their convictions. Blume is intended as an example. Through fear of civil and criminal sanctions the understanding and faith of the people will never be allowed to mature and find true happiness; never be permitted to step outside the officially approved channels for religious and political thought. With the present official policies in Idaho, public opinion will never be permitted to reject the existing order or adopt and express religions opposed to it.

III.

GOVERNMENT MUST BE NEUTRAL IN IDEOLOGICAL CONFLICTS

Government must be neutral in religion,

politics, nationalism, legal philosophy and other matters of opinion. One theory may not be promoted over another.

> "Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment mandates government neutrality between religion and religion, and between religion and non-religion." (Epperson v Arkansas, 393 US 97, 103-104.)

Supporting the theories of popular sovereignty and legal positivism over the Sovereignty of God and divine law is the opposite of neutrality in "matters of religious theory, doctrine and practice."

Neutrality is not only a principle of the First Amendment, but also the most basic of the due process requirements of the Fifth and Fourteenth Amendments. Judge Burnett notes that

> "Blume contends that the First Amendment requires government to be neutral in this conflict -- to refrain from compelling any adherent of Blume's faith to follow a secular rule. Of course, any such application of the First Amendment would

disable government with respect to Blume or to others who share his beliefs.

"Our analysis necessarily is anchored by the very proposition that Blume disputes. It is that the people possess a sovereign power..." (Page 3 of Burnett's Opinion).

Judge Burnett does not deny that the conflict is ideological. He does declare his intention to act without even the pretence of neutrality.

Judge Burnett imagines a limit for judicial neutrality previously unknown to this Court. He has excused judicial officers from impartiality in this and other similar cases. The theories of government and law now imposed will be supported by all necessary force. Any religion which runs contrary to this secular belief system will not be accorded toleration, much less governmental neutrality. Such "benefits of society" are bestowed only on religions sufficiently narrow and flexible to support the theory, or, at least, the practice, of democracy, statism and legal positivism. All other religions are anathema.

IV.

THE ASSOCIATION HAS ESTABLISHED A DE FACTO ORDER HOSTILE TOWARD BLUME'S RELIGION AND COMPELS FOSTERING THEREOF

The Establishment Clause of the First Amendment prohibits the establishment of a belief system, religious or non-religious, which is hostile to Blume's religion. Blume can not be required to fashion his religious beliefs and practices so as to accommodate the currently imposed theories of government and law. This principle has been clearly stated in Abood v. Detroit Board of Education, 431 US 209, 234-5 (1976):

> "For at the heart of the First Amendment is the notion that an individual should be free to believe as he will, and that in a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State...cites omitted...And the freedom of belief is no incidental or secondary aspect of the First Amendment's protections:
>
> 'If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.'"

This Court has also said:

> "We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all...cites omitted...A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts... Here, as in Barnette, we are faced with a state measure which forces an individual, as part of his daily life - indeed constantly while his automobile is in public view - to be an instrument for fostering public adherence to an ideological point of view he finds unacceptable. In doing so, the State 'invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.'...cite omitted..." (Wooley v. Maynard, 430 US 705, 714-5, 1976).

In effect, the Association's construction and application of their constitution and laws forces Blume to confess the faith and foster the ideologies underlying them. The barber license must be obtained and displayed daily in public view. Any open refusal to confess a faith in democracy, the state, the sovereignty of the people, or legal positivism is vigorously punished as a matter of policy. Fostering the Association's theories of government

and philosophy of law absolutely must be done, regardless of allegiances and duties which Blume owes to God.

The Association with its government and law is not only openly hostile to Christianity, but clearly in rebellion against the Sovereign of the Universe:

> "Who is sovereign, and to whom is man responsible? If sovereignty resides in God and is only held ministerially by men, then the basic responsibility of ruler and ruled is to God, who is the source of freedom. But if sovereignty resides in the state, whether a monarchy or democracy, man has no appeal beyond the law of the state, and no source of ethics apart from it....Absolute monarchy and democracy, statism in other words, came into existence as revivals of paganism and as anti-Christian movements, whatever their ostensible claims otherwise." Rushdooney, R.J., This Independent Republic, Thoburn Press, 1978, p. 15.

When certain religious beliefs were alleged to be false and part of a fraudulent mis-representation, this Court invoked the Establishment Clause with these words:

> "'The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect.' Watson v. Jones, 13 Wall. 679, 728." (United States v. Ballard, 322 U.S. 78, 86, 1943).

Yet the theories of government and law here drawn into question contain within themselves presuppositions which are at least indirectly religious in nature or have unavoidable, far-reaching religious implications. The Association rejects Blume's belief that God is sovereign by insisting that the people are sovereign. This is the dogma they have established and support. Whether secular or religious, the theory of popular sovereignty is established along with statism and legal positivism. These things are diametrically opposed and hostile to Blume's religion which is treated as heresy.

The theory of popular sovereignty is exactly that, a theory; a notion about government that has gained wide acceptance and is now being acted out by the Association. There can be no doubt on this point. Popular sovereignty is actually a dangerous theory according to those who study such things:

> "Popular-sovereignty theory is always, therefore, on the brink of totalitarianism, since - as the French Jacobin

> party showed - it is only a short step from proclaiming the sovereignty of the people to claiming the unlimited authority of its elected representatives, to proscribing opposition, and to denying individuals any rights other than those which the government with majority support deems fit." (The Encyclopedia of Philosophy, Vol. 2, p. 340, Macmillan, 1967).

The Association has "proscribed" its opposition and denied freedom of religion to those whose conscience leads them to believe in God's sovereignty and to reject the idea of popular sovereignty, along with democracy, statism and the unjust positive law system.

At the same time the Association established the non-religion of legal positivism which is hostile to Blume's religion, they also dis-established divine law, justice and the blessings of liberty as will be shown below, all in violation of the U. S. Constitution.

Judge Burnett asserts on Page three of his Opinion that Blume offers an "attack upon the rule of law itself." In this context the term "law" means the beliefs and ideas of men

formalized by enactment and imposed by force whether or not they conform with justice. Stripped of mysticism Judge Burnett's concept of the "rule of law" is nothing more than the rule of men - might makes right. It is Blume's religious duty to proclaim by example the true and just rule of law - God's law- very much as the Colonists did, but without the superstitious nonsense of democracy and statism.

V.

HOSTILITY TOWARD BLUME'S RELIGION IS PART OF HOSTILITY BASIC TO LEGAL POSITIVISM TOWARD THE LAW OF NATURE, DIVINE LAW, ESTABLISHMENT OF JUSTICE AND SECURING THE BLESSINGS OF LIBERTY

Implicit throughout his Opinion, Judge Burnett has openly revealed his zeal for legal positivism on page 3:

> "Theodore Roosevelt made the point directly when he said, 'No man is above the law and no man is below it, nor do we ask any man's permission when we require him to obey it.'

Of course, by "law" is meant human law, enactments of the legislature. This Court has

taken just the opposite position:

> "The only reason, I believe, why a free man is bound by human laws, is, that he binds himself." (Chisholm, supra.).

These are the words of this Court (James Wilson) in 1793, interpreting the Constitution of the United States. It is more than passing strange that Judge Burnett should feel comfortable "asking no man's permission" when he has taken an oath to support a Constitution established on the consent of the governed, consent he has no power to coerce as shown above. Under the original American system of natural law

> "[u]njust laws are not properly law. 'They do not, in consequence, oblige in conscience.'....Thus, in certain cases, disobedience may not only be a possibility, but a duty." d'Entreves, A.P., Natural Law, Hutchenson Univ. Library, p. 46.

Here is the American idea of the domain of conscience and of freedom and equality under natural law: Free men are not bound by laws made by their equals, except with consent. All else is mysticism or tyranny. Blume did not of his own free will "enter into" this

society, as Judge Cogswell implies on page 7 of his Order. Blume was created by God and placed here for the express purpose of proclaiming and practicing God's kingdom and Law in the midst of a rebellious people. The so-called benefits of living in society are blessings that flow from God, not men, and obedience is owed to God on that account. According to the Preamble the intent of the Founders was to "secure the blessings of liberty." The Association denies this claiming that blessings are really benefits of society. Therefore, obedience is owed to man-made laws.

Of course, Wilson and the other Colonists held and practiced the legal theory of natural law. James Wilson was the foremost legal scholar of his day and one of the first Supreme Court justices. From his famous lectures on natural law given at Harvard:

> "Of law there are different kinds. All, however, may be arranged in two different classes. 1. Divine. 2. Human laws. The descriptive epithets employed denote, that the former have God, the latter, man, for

their author." (The Works of James Wilson, Belknap, Vol. 1, p. 123, 1967).

Wilson then divides the laws of God into four "species": Law eternal for God himself; law celestial, for angles and spirits of the just; physical laws; and the law of nature and the revealed law for men. For the founders the last two species were binding on men without consent, while

> "[h]uman law must rest its authority, ultimately, upon the authority of that law, which is divine."
>
> "Of that law, the following are maxims - that no injury should be done - that a lawful engagement, voluntarily made, should be faithfully fulfilled. We now see the deep and the solid foundations of human law.
>
> . . .
>
> "The law of nature, the law of nations, and the municipal law form the objects of the profession of law.....Far from being rivals or enemies, religion and law are twin sisters, friends, and mutual assistants. Indeed, these two sciences run into each other. The divine law, as discovered by reason and the moral sense, forms an essential part of both." (Ibid., p.124).

Blume has not violated either of the maxims of divine law. No doubt Judge Burnett and Judge Cogswell find the legal system established by

the Founders a bitter pill to swallow. Despite their oath of office and because of their personal preference for legal positivism, they will tolerate no mention of divine law, blessings or justice in matters official.

Whatever became of the natural/divine law system in Idaho? It was replaced with legal positivism by men like Gregersen, Burnett and Cogswell on their own initiative:

> "In the law, positivism is associated with the idea that law derives its binding quality solely because it proceeds from the dominant political authority in civil society. Hence the term positive law is used to distinguish this law from either natural law or the social customs prevailing in any given society...Most contemporary legal philosophy in the English speaking world has developed from nineteenth-century 'legal positivism.'" A Guide to American Law, West Publ., 1984, Vol. 8, p. 237.

Legal positivism is in no sense neutral toward Blume's religion:

> "Legal positivism, a humanistic faith, has been savage in its hostility to the biblical law-system and has claimed to be an 'open' system. But Cohen, by no means a Christian, has aptly described the logical positivists as 'nihilists' and their faith as 'nihilistic absolutism.' Every law-system must maintain its existence by hostility to every other law-system and to

> alien religious foundations, or else it commits suicide." Rushdooney, R.J., The Institutes of Biblical Law, Presbyterian and Reformed Publ., 1973, p. 5-6.

The theory of legal positivism has replaced completely the original system in what must be characterized as a-usurpation of power. True, the Constitution is still supported in a sense, but the substance of any government is its law system. When did Idaho officials go to the people they regard as sovereign to ask permission to eviscerate the idea of government established by the Colonists? Natural law as the Founders understand it has disappeared almost without a trace and been replaced by legal positivism in Idaho.

Hans Kelsen, one of the leading figures in legal positivism of the twentieth century, has this to say about the Association's law system:

> "The pure theory of law insists upon a clear distinction between empirical law and transcendental justice by excluding the latter from its specific concerns... positive law may or may not correspond to an ideal law presented as justice or "natural" law. It is in its relation to the ideal law, called justice or "natural"

> law, that the reality of positive law appears. Its existence is independent of its conformity or nonconformity with justice or "natural" law." Kelsen, Hans, General Theory of Law and State, Trans. by Anders Wedberg, Harvard Univ. Press, 1945, p. XIV-XV.

Such nonsense may be acceptable as a personal belief, but governmental officials in America must take an oath to support the Constitution which includes the Preamble:

> "We, the People of the United States, in order to form a more perfect union, establish justice,...secure the blessings of liberty..."

The establishment of justice does several things. It establishes natural law, for, Kelsen tells us, natural law is the same as justice. More importantly it establishes divine law, because Wilson tells us that natural law is only a species of the divine. And, it prohibits the establishment of any law system which excludes justice from consideration, as does legal positivism.

The people still revere the Declaration and the Preamble. They believe in God and in justice. They have never given permission for

"Void" to be stamped over the momentous words "Law of Nature and of Nature's God," "created equal," "establish justice" and "secure the blessings" in the organic documents. When the malfeasance of officials becomes more generally known the people will rise up in righteous indignation, abolish the de facto order, and re-establish the original. This is even now happening. The Association is eager to enjoin any such movement.

A silent, secret usurpation was conducted by unprincipled men loath to accept the limitations of divine law on their lust for power. Neither constitutional amendments nor democratic processes were employed to change the law system and make justice obsolete. The consent of the majority was never asked. Recalcitrant officials have kept the people in ignorance of the drastic change. The change is so great that under the present law system the Declaration, the United States and the State of Idaho itself, are impossible to justify because their legal foundation is a

law higher than man's. British positive law absolutely prohibited independence just as the Association's prohibits religious liberty and abolishment of government in Blume's case.

The men who conceived and carried out this reworking of the underpinnings of American government on their own authority had no right whatsoever to do so. All they have done is null and void. The binding quality of the licensing scheme for barbers is rooted, not in divine law, but in legal positivism because there need be no showing of actual wrong-doing or grave and immediate danger. It is an unjust law and does not oblige in conscience. In Blume's religion one of the basic aspects of divine law is justice, a proportionate response to wrong-doing. The licensing laws are utterly repugnant because they deny divine law and exclude justice.

The Association and their predecessors, hostile to Christianity, have stormed the classrooms, the halls of Congress and the courts of law with their counter-revolutionary

and unjust legal philosophy of positivism. A small group of men have unmade the constitution. Judge Cogswell quotes Marshall as saying this can not be permitted to succeed:

> "But this supreme and irresistible power to make or to unmake [the Constitution], resides only in the whole body of the people; not in any sub-division of them. The attempt of any of the parts to exercise it is usurpation, and ought to be repelled by those to whom the people have delegated their power of repelling it. IV. A. Beveridge, The Life of John Marshall 352, 1919." (Page 7).

Blume's expression of his religion confronts the usurpers with their perfidy, publicly exposing it. Blume respectfully demands that this usurpation be repelled. At the very least the Association must stop imposing their philosophy of legal positivism and disrespect for justice on Blume as well as its equally repugnant theories of government. The Association must allow Blume to practice his religion no matter how much hostility for their usurpations and recalcitrance comes to the surface as others discover the truth.

VI.

LESS INTRUSIVE ALTERNATIVES EXIST WHICH LEAVE BLUME FREE IN MIND AND SPIRIT

The present clash between Blume and the Association is not necessary. Blume's religion has sensitized him to the feelings and well-being of others to such a degree that a friendly word from Gregersen, or some other Association official, pointing out that Blume was spreading disease or infection, or was likely to, would have immediate effect. Blume would have been compelled out of obedience to divine law to mend his ways and make restitution where possible. That's what the second greatest commandment is all about: "Thou shalt love thy neighbor as thyself." (Matt. 19:19, 22:39; Mark 12:31; Luke 10:27). Of course, the Association's chief concern has never been the public health and safety in these proceedings. Rather, it has been compelling Blume to foster and confess by word and act a faith in the theories of government and law held dear by the Association.

If a friendly word was not enough the Association still has a great many options available, none of which entail forcing Blume's conscience as does the course they have chosen. For example, a short announcement in the local paper exposing Blume's unsanitary practices and naming those injured, if any, would surely end the public threat. Or a law designed to prohibit members of the Association from patronizing unlicensed barbers on pain of criminal penalties would have the same effect. Such solutions have not occurred to Association officials because their goal lies in another direction: Imposing their theories of government and law without respect for "over-broad or over-rigid' beliefs. Public health and safety is no more than a handy cover.

Approaches similar to the three above suggested would be in keeping with this Courts prior rulings:

> "Even were we to credit the State's reasons and 'even though the governmental purpose be legitimate and substantial,

that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose.'... cite omitted..." (Wooley v. Maynard, 430 US 705, 716-7, 1976).

VII.

HOLDING IN BLUME'S FAVOR BRINGS THE ASSOCIATION WITHIN THE PALE OF THE ESTABLISHED GOVERNMENT AND LEGAL SYSTEM

Holding in favor of Blume would reflect nothing more than the governmental obligation of neutrality in the face of religious and ideological differences. Blume has suggested several alternatives for the protection of the public health and safety which are less intrusive. The recognition of Blume's right to hold and practice his religion short of "grave and immediate danger" does not serve to abridge any other person's rights. Nor would that recognition leave Blume free to spread disease and infection among his patrons. Nor would such a holding require the wholesale and

immediate repelling of past usurpations with possible major disruption in society. Return to justice under the natural/divine law system will be gradual as more and more individuals like Blume come to realize the full implications of taking as King the one the Founders called the "Supreme Ruler of the Universe" and stand upon their convictions. They will put aside the nonsense of popular sovereignty. In an orderly fashion, one by one, men will abolish the unbiblical State and the positive law from their hearts and minds, once again establishing justice and securing the blessings of liberty.

Such a holding would only require the Association to 1) effectively recognize and secure Blume's freedom of thought as absolute; 2) effectively recognize and secure Blume's freedom of religious practice up to the point such practice constitutes a "grave and immediate danger" and prohibit the compelled practice of democratic statism and legal positivism; 3) effectively guarantee governmental

neutrality, and proscribe hostility, toward religions such as Blume's; 4) prohibit the establishment of a non-religion in Idaho with principles in militant opposition to the tenets of Blume's religion, and 5) establish justice and secure the blessings of liberty at least for Blume and others who share his beliefs.

This does not completely "disable government with respect to Blume and others who share his beliefs" in the sense that the community is at Blume's mercy. Rather it brings the Association's activities within the pale of the First Amendment, the Declaration and the Preamble as the first step in repelling usurpations and stopping deprivations of long standing. Association members retain the natural right to protect themselves, both personally or through agents, from any actual dangerous conduct. However, Blume must be left free and unmolested in his belief that Idaho is only a province of the Kingdom of God, that God is sovereign, that God's law

alone is binding on men, and that the establishment of justice is mandatory. The Association may not

> "force anyone to embrace any religious belief or to say or believe anything in conflict with his religious tenets." (Braunfeld v Brown, 366 US 599, 603).

A cult which could be shown to commit atrocities in the name of religion or with a religious cloak would present a different problem. We do not have that condition here. Nothing in this appeal is intended even remotely to imply that, under the cloak of religion, Blume may, with impunity, injure or endanger others. Such actions are prohibited by God's law. Blume is compelled by conscience to submit to the unbiased, non-adversarial administration of right and justice according to the maxims of divine law, tempered by mercy as required in the New Testament; and he will do so should the need arise. But Blume can not embrace the Association's theories of democracy, statism and legal positivism under any circumstances.

As Madison said in his 1785 Memorial and Remonstrance, paragraph 1:

> "'that Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reson and conviction, not by force or violence.' The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate....in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance."

This principle must apply even to religions as far-reaching as Blume's.

Finally, the First Amendment does apply to the Association:

> "Justice Clark was enabled to say: 'First, this Court has decisevely settled that the First Amendment's mandate that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof' has been made wholly applicable to the States by the Fourteenth Amendment." (Abington School Dist. v. Schempp, 374 U.S. 203, 215, 1963.)

Blume has thus far invaded no right or interest of the public. As in Cantwell, so in this case:

> "We must determine whether the alleged protection of the State's interest, means to which end would, in the absence of limitation by the Federal Constitution,

lie wholly within the State's discretion, has been pressed, in this instance, to a point where it has come into fatal collision with the overriding interest protected by the federal compact." (Cantwell, 310 U.S. 296, 1939, p. 307).

That fatal collision has occurred mandating review on appeal.

Dated this ____ day of January, 1988 A.D.

Respectfully Submitted,

_____
Bill O. Blume

I hereby certify that the foregoing is true and correct to the best of my knowledge and belief.

_____

Subscribed and affirmed to before me this ____ day of January, 1988.

_____

APPENDIX 1

[Page 1]

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

No. 16506

MARVIN D. GREGERSEN, Chief, BUREAU OF OCCUPATIONAL LICENSES, DEPARTMENT OF SELF-GOVERNING AGENCIES OF THE STATE OF IDAHO; BOARD OF BARBER EXAMINERS, STATE OF IDAHO,	)	1987 Opinion CA-97
Plaintiffs-Appellees,	)	Filed: Sept. 2, 1987
v.	)	Frederick C. Lyon, Clerk
BILL OLIVER BLUME,	)	
Defendant-Appellant.	)	

Appeal from the District Court of the First Judicial District, State of Idaho, Boundary County. Honorable Dar Cogswell, District Judge.

Judgment permanently enjoining defendant from barbering without a license, affirmed.

Bill Oliver Blume, appellant pro se.

Hon. Jim Jones, Attorney General, by Daniel G. Chadwick, Deputy Attorney General, of Boise, for respondents.

BURNETT, J.

This appeal presents a religious challenge to the secular authority of the state to

regulate a commercial activity. Bill Blume, the proprietor of a business known as "Ye Olde Contract Barber" or Bill's Barbershop," contends that the State of Idaho is infringing impermissibly upon his constitutionally protected religious beliefs by requiring him to obtain a license and a certificate of registration as a barber. Confronted with Blume's refusal to be regulated, the Idaho Bureau of Occupational Licenses and the Board of Barber Examiners sought and received

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from the district court a judgment enjoining Blume from practicing his occupation until he complies with state laws. For reasons explained below, we affirm the judgment.

The essential facts are undisputed. For more than twenty years, Blume was registered, and his shop was licensed, as required by chapter 5, title 54, Idaho Code. However, in the spring of 1984, Blume adopted a religious faith called the "New Covenant Theocracy." The central theme of this faith, as

described by Blume, is that all the world is a theocracy. God alone is the sovereign, law-giver and judge. The "New Covenant Theocracy" apparently leaves no room for its followers to accept secular authority. Indeed, Blume informs us that any consent to human government would be an act of rebellion against the divine order.

Pursuant to his newly adopted beliefs, Blume decided in 1984 that he would no longer submit to any government regulation of his occupation. He declined to renew his license or certificate of registration. Subsequently, he was convicted twice of misdemeanor offenses for violating the licensure and registration statute, I.C. Sec. 54-501. However, the filing of criminal complaints did not deter Blume from continuing his business. While the second prosecution was pending, this civil action for injunctive relief was brought against him. He responded pro se, asserting an infringement of religious freedom and counterclaiming for damages caused by loss of

earnings and emotional distress. On cross-motions for summary judgment, the district court held that no disputed issues of material fact existed and that the state was entitled as a matter of law to the relief sought. Accordingly, the court permanently enjoined Blume form "barbering in the State of Idaho without first [complying with] . . . [c]hapter 5, [t]itle 54, Idaho Code." The court dismissed Blume's counterclaim. This appeal followed.

[Page 3]

I

Blume's brief presents an articulate, and in some passages eloquent, expression of his beliefs. He offers not so much a legal argument as an attack upon the rule of law itself. In a discourse drawing upon concepts of theology and political theory, Blume portrays a seemingly irreconcilable conflict between his "New Covenant Theocracy" and "democratic statism." He contends that the First Amendment requires government to be

neutral in this conflict -- to refrain from compelling any adherent of Blume's faith to follow a secular rule. Of course, any such application of the first Amendment would disable government with respect to Blume or to others who share his beliefs.

Our analysis necessarily is anchored by the very proposition that Blume disputes. It is that the people possess a sovereign power; that in the exercise of this power, they may create institutions of government; and that they may imbue the government with power, as defined by law, to regulate their activities. This proposition lies at the heart of the United States Constitution. It finds vivid expression in the Constitution's opening words: "We the people. . . ."

Through the Constitution, the American people have struck a balance between order and liberty. As our Court has observed: "Individuals must sacrifice a part of their 'liberty' in order to empower a government to regulate through passage and enforcement of

laws necessary for the general public welfare." State v. Gibson, 108 Idaho 202, 203, 697 P.2d 1216, 1217 (Ct. App. 1985). All of us bear this sacrifice. "Citizens may not choose to receive the benefits of a civilized society without sharing the burdens." State v. Staples, 112 Idaho 105, 107, 730 P.2d 1025, 1027 (Ct. App. 1986). Theodore Roosevelt made the point directly when he said, "No man is above the law and no man is below it, nor do we ask any man's permission when we require him to obey it."

[Page 4]

But the Constitution is not merely an organ of government; it is also a charter of individual rights. The First Amendment, in its references to religion, embraces two concepts: freedom to believe and freedom to act. "The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society." Cantwell v. Connecticut, 310 U.S. 296, 303-4 (1939). Thus, Blume

is free to maintain and to express his belief that god is the sole sovereign. However, his actions are subject to some degree of regulation. United States v. Lee, 455 U.S. 252 (1982); Bissett v. State, 111 Idaho 865, 727 P.2d 1293 (Ct. App. 1986).

We recognize that Blume rejects this dichotomy between thought and action. He argues that his particular faith commands action. He tells us that he cannot preserve the integrity of his beliefs if he acquiesces to secular authority in any form, even by so simple an act as procuring a barber's registration and license. Although we appreciate the sincerity of Blume's argument, we cannot fashion First Amendment jurisprudence according to the breadth or rigidity of a particular religious doctrine. Instead we must apply objective, general standards to any claim of religious infringement.

II

A First Amendment claim may invoke either the establishment clause or the free

exercise clause. The establishment clause prohibits government sponsorship of religion. It requires that government neither aid nor formally establish a religious faith. The free exercise clause is a negative corollary of the establishment clause. It bars the government form prohibiting any religious belief and it requires the government to make some accommodation for religious practices when it pursues secular ends that incidentally affect religion. Blume appears to rest his appeal on both clauses. He attempts to invoke the establishment clause by contending that "democratic statism" is a belief system in competition with theocracy. He urges that government ought not to favor one belief system over the other.

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He attempts to invoke the free exercise clause by asserting that he cannot effectively practice his religion if he must accept secular regulation as a barber.

We are not persuaded that "democratic

statism" is a government-sponsored form of religion within the ambit of the establishment clause. In any event, our focus here is not upon democracy in general but upon the state barbering laws. A law, or scheme of laws, will pass muster under the establishment clause if: (1) it has a secular purpose; (2) it has a primary secular effect; and (3) it does not thrust the government into an excessive entanglement with religion. E.g., Edwards v. Aguillard, ___ U.S. ___, 55 U.S.L.W. 4860 (1987); Lemon v. Kurtzman, 403 U.S. 602 (1971). We think these tests are satisfied here. The barbering laws, set forth at chapter 5, title 54, Idaho Code, are directed at public health and safety aspects of a commercial activity. Although the laws may incidentally affect Blume's religious beliefs, their primary effect is clearly secular. These laws do not entangle the government with religion except in the rare instance, such as the case now before us, where an individual espouses a faith with

tenets so sweeping that all secular laws are implicated. Accordingly, we reject Blume's claim of religious infringement insofar as it is grounded in the establishment clause.

The standard governing a free exercise claim usually is expressed in three parts, although some parts may be consolidated. A court must inquire (1) whether the law in question imposes a significant burden upon the practice of religion; (2) if so, whether the law serves an overriding governmental purpose; and (3) whether the law is essential to that purpose. E.g., Wisconsin v. Yoder, 406 U.S. 205 (1972); Bissett v. state, supra (focusing on the latter two elements). The first inquiry causes us some disquietude. In an ordinary case, we could not conceive that state barbering laws would produce a significant impact upon the practice of religion. However, as noted above, the tenets of Blume's faith are so

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far-reaching that such an impact is un-

avoidable. Generally it is beyond the judicial function or competence to weigh the soundness of an individual's religious beliefs. United States v. Lee, supra. "Courts are not arbiters of scriptural interpretation." Thomas v. Review Board of Indiana Employment Security Division, 450 U.S. 707, 716 (1981). On the other hand, a court is not bound to accept at face value a claim which is "so bizarre, so clearly nonreligious in motivation, as not to be entitled to protection under the free exercise clause." Id. at 715. Although Blume's claim obviously is an unusual one, we decline to characterize it as bizarre or clearly nonreligious. Consequently, for the sake of argument, we will accept the proposition that the state barbering laws do produce a significant impact upon Blume's practice of religion.

The next question is whether these laws serve an overriding state interest. It is well settled that the state may regulate the haircutting trade in order to protect public

health and safety. Montejano v. Rayner, 33 F. Supp. 435 (D. Idaho 1939); Byrd v. Employment Security Agency, 86 Idaho 469, 388 P.2d 100 (1964); Pearce v. Moffatt, 60 Idaho 370, 92 P.2d 146 (1939). The state's interest in protecting public health and safety is readily apparent. The spread of infection or contagious diseases is a threat wherever people congregate and interact. The need for proper hygiene is services that cater to the public is of paramount importance. State regulation tends to ensure that qualified persons provide such services. The tonsorial profession is no exception. Barbers in Idaho are required to be proficient not only in haircutting but in scientific fundamentals of such topics as hygiene, bacteriology, histology of hair and skin, elementary chemistry relating to sterilization and antiseptics, and diseases of the hear or skin. I.C. Sec. 54-506(4), 507. They also must be free of disease themselves. I.C. Sec. 54-509. In our view, the barbering laws serve a governmental interest that

overrides the religious claim made here.

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The last question is whether licensure and registration are essential to this purpose. We think they are. Effective regulation requires "mandatory, continuous and uniform compliance." Bissett v. State, 111 Idaho at 868, 727 P.2d at 1296. Registration and licensure are universally accepted, virtually indispensable methods of identifying persons engaged in a regulated activity and assuring their conformance to applicable standards. Blume has not suggested, nor can we postulate, a less intrusive alternative to these regulatory devices is the overriding public interest in protecting health and safety is to be served. Accordingly, we reject Blume's free exercise claim. The state barbering laws do not impermissibly infringe upon his religious freedom under the Constitution.

We emphasize that Blume's right to believe in the "New Covenant Theocracy"

remains uninhibited. The barbering laws do not censor religious thought or expression. Concededly, the laws may incidentally affect Blume's conduct in the practice of his religion. But, as former Chief Justice Burger has noted:

> [E]very person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice religious beliefs. When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith are not to be superimposed on the statutory schemes which are binding on others in that activity.

United States v. Lee, 455 U.S. at 261.

The judgment of the district court is affirmed. Costs (exclusive of attorney fees, which have not been requested) to respondents.

WALTERS, C.J., and SWANSTROM, J. concur.

I, Frederick C. Lyon, Clerk of the Court of Appeals of the State of Idaho, do hereby certify that the above is a true and correct copy of the Opinion entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court 9-2-87.

[Signed] Carmen Bird, Deputy.

APPENDIX 2

[Page 1]

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BOUNDARY

MARVIN D. GREGERSEN, et al.,	)	
	)	
Plaintiffs,	)	Case No. 7841
	)	
v.	)	Filed: April 22, 1986
	)	
BILL O. BLUME,	)	
	)	
Defendant.	)	

ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Both parties have moved for a Summary Judgment.

Plaintiffs' complaint seeds a permanent injunction to prevent the Defendant from continuing to practice barbering in the State of Idaho, while not duly licensed.

Defendant's Counterclaim seeds damages from the State of Idaho on a myriad of grounds which shall be hereafter referred to.

On April 5, 1985, this Court entered an

Order denying Plaintiffs' Motion for a Preliminary Injunction. At that time the

[Page 2]

Court found that:

The Defendant first received his Certificate of registration as a Registered Barber in the State of Idaho on July 1, 1961.

Defendant maintained his Certificate of Registration until the spring of 1984, when he returned the same to the Bureau of Occupational Licenses, indicating that he did not need a license.

Pursuant to Idaho Code 54-515 and 67-2614, Defendant's license expired on June 30, 1984, and was cancelled by the Bureau of Occupational Licenses on October 1, 1984.

At the time of hearing the State's Motion for a Preliminary Injunction, Robert L. Jones, Investigator for the Bureau of Occupational Licenses, testified that on November 7, December 4, and December 5, 1984, and March 8, 1985, he observed the Defendant cutting hair on male adults at Bill's Barbershop, 110 Main

Street, Bonners Ferry, Idaho.

At that time, a misdemeanor criminal complaint was brought against the Defendant in Boundary County Case No. 8144, for a violation of Idaho Code 54-501 and 54-519, barbering without a Certificate of Registration, and a Judgment imposing a fine was entered on the conviction on February 21, 1985.

In addition, the Plaintiff has filed the Affidavit of Robert L. Jones, in support of Plaintiff's Motion for Summary Judgment, alleging that on November 14, 1985, Robert L. Jones observed Bill Blume cutting and trimming the hair of Stan DeHart at the premises of 110 Main Street,

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Bonners Ferry. At approximately 9:17 a.m., Mr. DeHart left the premises after having appeared to pay Mr. Blume for his services.

Mr. Jones further alleges that also on said date he observed Bill Blume cutting and trimming the hair of Orville Mecham of Hermiston, Oregon.

Also, at 9:46 a.m., on said date, he observed Bill Blume cutting and trimming the hair of an unidentified adult male on said premises.

In addition, at 9:52 a.m. on said date, he observed Bill Blume cutting and trimming the hair of a fourth adult male, unidentified, on the premises, and that upon leaving the premises this individual appear to pay Mr. Blume.

The Plaintiff has filed the Affidavit of James Stanley DeHart, which alleges that approximately 9:00 a.m., on November 14, 1985, he entered the premises at 110 Main Street, Bonners Ferry, Idaho, which premises had a sign on the door "Ye Olde Contract Barber" with a barber pole shown, and that while there his hair was trimmed by Bill Blume.

Mr. DeHart further alleges that after his hair was trimmed by Bill Blume, he paid $3.00 to Bill Blume, his customary fee for said service, and departed the premises.

The records and files further show that

on October 30, 1985, a Judgment was entered by Magistrate Debra Heise, finding the Defendant, Bill Blume guilty of the crime of operating a barbershop without a

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license in violation of Idaho Code 54-501.

Judge Heise fined the Defendant the sum of $200.00 and assessed court costs in the sum of $15.50, with payment to be made on or before November 30, 1985.

Bill Blume has made no response by Affidavit or otherwise to the showing of the Plaintiff for Summary Judgment, all as provided by I.R.C.P. 56(e).

Blume's only reply is by a document called Answer to Plaintiffs' Motion for Summary Judgment, wherein Blume outlines his religious and moral beliefs and his interpretation of certain constitutional provisions, most of which have no direct reference to the matter at hand.

SUMMARY JUDGMENT STANDARDS

In ruling on Motions for Summary Judg-

ment, the Court must look to the totality of the motions, affidavits, depositions, pleadings and attached exhibits, and not merely a portion of the record. All doubts are to be resolved against the moving party. A Summary Judgment may be granted when all of the applicable pleadings, depositions, admissions, affidavits, et cetera, have been construed most favorably to the non-moving party and it is clear that there are no genuine issues of any material fact. (Bailey vs. Ness, I.S.C.R. 2195; John Doe vs. Durtschi, 86 I.S.C.R. 19.)

ORIGINAL ORDER DENYING INJUNCTION

In the Court's original Order denying injunction in this

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case it was the opinion of the Court that the Injunction should not issue at that point in time, to restrain acts punishable by criminal laws. However, as stated in 42 AmJur 2d, Injunction, Sec. 157:

> "It may be that in some instances the remedy at law by a prosecution and conviction of a crime is adequate, but

where the defendant has been convicted of the offense more than once and continues to commit the offense, it would seem that the remedy at law is not adequate."

Such is the case that we have here.

The State has shown by the record and file that Mr. blume has again been convicted of the same offense since the Court Order of April 5, 1985.

In addition, the Plaintiff has shown that Mr. Blume has committed the act of barbering, as provided in Idaho Code 54-502, and has done so for payment either directly or indirectly, or without payment for the public generally."

It is without question that the Plaintiff may regulate certain occupations and the Defendant has made no showing of any exemption form such regulation.

The principal purpose of the Idaho Barber Law is to assure that the public health, safety, and welfare is protected.

It is the opinion of this Court, at this time, that the issuance of an Injunction

is this case is proper when the conduct of the Defendant is such as to constitute a persistent and continuous violation

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of the Idaho Statutes designed to protect the public. (See Oregon State bar vs. Wright, 573 P.2d 283.)

It is the Defendant's further position that he is not subject to man's law, and by his nature is free therefrom, and any regulation resulting from the imposition of man's law.

A same or similar argument was raised in the case of State vs Gibson, 108 Ida 202. In that case, Gibson argued that he had not accepted the Idaho Motor Vehicle Operator's License, and by not accepting the same, he had not consented to be regulated.

In other words, Gibson contended that he need not obtain liability insurance or register his car unless he first agreed to obtain an Operator's License. Only then, according to Gibson, is a "contract" with the

State created, binding him to the laws related to the use of motor vehicles.

Our Appellate Court held as follows:

"The "rights of Liberty", however, are not entirely free. Individuals must sacrifice part of their "liberty" in order to empower a government to regulate, through passage and enforcement of laws necessary for the general public welfare."

"John Locke, the English philosopher who wrote of government and freedom, said: "Where there is no law, there is no freedom." Quoted in W. BLACKSTONE, COMMENTARIES ON THE LAW 69 (B. Gavit ed. 1941). A law is "an ordinance of reason for the common good, made and promulgated by him who has care of the community." L. FRANKEL, LAW, POWER AND PERSONAL FREEDOM 64 (1975) (quoting St. Thomas Aquinas).

"Blackstone also commented on man's liberty:

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"The absolute rights of man, considered as a free agent, are denominated the natural liberty of mankind, which consists in a power of acting, as one thinks fit, without any restraint or control, unless by the law of nature; being a right inherent in us by birth, when God endowed man with free will. But every man, when he enters into society, gives up a part of his natural liberty, as the price of so valuable a boon, and obliges himself to conform to those laws, which the community has thought proper to establish. Otherwise there would be no security to individuals in any of the enjoyments of life.

"BLACKSTONE, supra, at 68-69. Gibson "entered into" our society when he began to live in it. He has no right to unilaterally withdraw from society, rejecting his obligations to that body, while at the same time retaining the advantages of that society -- advantages for which others have sacrificed part of their liberty. John Marshall, the great Chief Justice of the United States, said "the best rule for freemen...in the opinion of our ancestors [those who had produced and ratified our constitution] was ...that...of obedience to laws enacted by a majority of the people's representatives. II. A. BEVERIDGE, THE LIFE OF JOHN MARSHALL 402 (1916). See also Mutual Loan Co. v. Martell, 222 U.S. 225, 32 S.Ct. 74, 56 L.Ed. 175 (1911). Marshall also stated:

"Whenever hostility to the existing system shall become universal, it will be also irresistible. The people made the constitution, and the people can unmake it...But this supreme and irresistible power to make or to unmake, resides only in the whole body of the people; not in any subdivision of them. The attempt of any of the parts to exercise it is usurpation, and ought to be repelled by those to whom the people have delegated their power of repelling it.

IV. A. BEVERIDGE, THE LIFE OF JOHN MARSHALL 352 (1919) emphasis added.)

"Furthermore, we note a premise dating back at least to the time of Plato: "The 'just powers' of government derive from 'the consent of the governed.'" E. Rostow, "The Obligation to Obey Valid Law in A Society of Consent," in FRANKEL, supra, at 759. Rostow concluded form his premises that

> "in a society of consent the powers of government are just in Jefferson's sense: that is, they are legitimate, because authorized and renewed by procedures of voting all must respect. As a consequence, a citizen of such a society owes his fellow citizens, and the state they have established together, a moral duty to obey valid laws until they are repealed or fall into desuetude.
>
> "Id. (emphasis original). Indeed, one of the maxims of common law provides: "The sovereignty of the state over its citizens is supreme." BLACKSTONE, supra, at 952."

In the opinion of the Court there are no disputed material issues of fact in this case and it appears to the Court that a Permanent Injunction should be granted enjoining the Defendant, Bill Blum , from barbering in the State of Idaho without first obtaining a Certificate of Registration as a Registered Barber, all as authorized by Chapter 5 Title 54, Idaho Code.

It is the further conclusion of this Court that there are no material disputed issues of fact concerning the Defendant's Counterclaim against the Plaintiffs, and that

the Counterclaim does not state a cause of action and should be dismissed.

Plaintiff is the prevailing party in this matter and entitled to court costs.

Will attorney for the Plaintiff prepare the appropriate Summary Judgment to be entered herein.

DATED this 22nd day of April, 1986.

[Signed]
Dan Cogswell, District Judge.

Copies sent to:

Fred Goodenough
Bill O. Blume

APPENDIX 3

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

No. 16506

MARVIN D. GREGERSEN, Chief Bureau of Occupational Licenses, Department of Self-Governing Agencies of the State of Idaho; BOARD OF BARBER EXAMINERS, State of Idaho, Plaintiffs, Respondents, vs BILL OLIVER BLUME, Defendant, Appellant.	ORDER DENYING PETITION FOR REHEARING

The Court has received and reviewed appellant's petition for rehearing (captioned as a "Motion for Reconsideration"), together with a supporting brief. Although the brief, like Blume's other written submissions, is sincere and well-written, the Court finds its arguments unpersuasive. Accordingly, IT IS HEREBY ORDERED that the petition for rehearing ("Motion for Reconsideration") be, and is, denied.

DATED this 6th day of October, 1987.

[Signed]
Jesse R. Waltes
Chief Judge

ATTEST:

Frederick C. Lyon [Signed]
Clerk

APPENDIX 4

IN THE SUPREME COURT OF THE STATE OF IDAHO

No. 16506

MARVIN D. GREGERSEN, Chief Bureau of Occupational Licenses, Department of Self-Governing Agencies of the State of Idaho; BOARD OF BARBER EXAMINERS, State of Idaho, Plaintiffs, Respondents,	)	ORDER DENYING PETITION FOR REVIEW
	)	Rev. No.
vs	)	87R-33
BILL OLIVER BLUME, Defendant, Appellant.	)	

The Appellant having filed a PETITION FOR REVIEW and supporting BRIEF on September 14, 1987 of the Opinion of the Court of Appeals filed September 2, 1987; therefore,

after due consideration,

IT IS HEREBY ORDERED that Appellant's PETITION FOR REVIEW be, and hereby is, DENIED.

DATED this 30th day of October, 1987.

by Order of the Supreme Court

[Signed]
Frederick C. Lyon, Clerk

cc: District Court Clerk
District Judge James R. Michaud
Adm. Judge Gary M. Haman
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APPENDIX 5

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

MARVIN D. GREGERSEN, Chief Bureau of Occupational Licenses, Department of Self-Governing Agencies of the State of Idaho; BOARD OF BARBER EXAMINERS, State of Idaho,	)	Supreme Court No. 16506
Plaintiffs,	)	NOTICE OF
Respondents,	)	APPEAL
vs	)	(Filed: 12-18-87)
BILL OLIVER BLUME, Defendant, Appellant.	)	

Appellant, Bill Oliver Blume, appeals to the Supreme Court of the United States from the final judgment of this court entered September 2, 1987, and finalized on October 30, 1987, affirming the order granting Appellee's motion for summary judgement permanently enjoining defendant from the practice of barbering as defined by Idaho Code Sec. 54-502 until such time as the registration requirements of Chapter 5, Title 54, Idaho Code are complied with, and denying Appellant's motion for summary judgment.

This appeal is taken pursuant to 28 U.S.C.A. Sec. 1257. Appellant has claimed that the following comprise an overall scheme which is intolerable under the federal Constitution as construed and applied to the Appellant: Chapter 5, Title 54 and Sec. 1-705, Idaho Code, and Art. 5, Sec. 20, Idaho Constitution, and/or the Constitution and statutes of the State of Idaho generally. The final judgment from which this appeal is taken is in favor of the validity of the said sta-

tutes, article and constitution.

Dated this 18 day of December, 1987.

Respectfully,

[Signed]

Bill O. Blume

Certificate

I certify that I have served a copy of Appellant's Notice of Appeal on Jim Jones, Room 210, Statehouse, Boise, Idaho, 83720, counsel for appellee, by depositing a copy of same in a mail box with first class postage prepaid the ___ day of December, 1987.

I further certify that all parties required to be served have been served.

[Signed]